

**A RESOLUTION BY**

**02- R -0511**

**CITY UTILITIES COMMITTEE**

**A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF ONE HUNDRED TWENTY SEVEN THOUSAND FIVE HUNDRED DOLLARS AND 00/100 (\$127,500.00) AS STIPULATED PENALTIES FOR VIOLATIONS OF CSO FECAL COLIFORM OPERATIONAL STANDARDS AND CSO SAMPLING PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City has experienced violations of Fecal Coliform Operational Standards and Sampling Requirements as set out in Exhibit "A" hereto; and

**WHEREAS**, these violations are subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT Paragraphs XI.D.2 and XI.D.3, together with applicable interest pursuant to Paragraph XI.O; and

**WHEREAS**, the Department of Public Works of the City does not dispute the fact that these violations of CSO Fecal Coliform Operational Standards and CSO Sampling Requirements did occur; and

**WHEREAS**, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS**, funds for this purpose are available in account number 2J01-529017-M51001; and

**WHEREAS**, it is deemed to be in the interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

**NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, as follows:**

**Section One:** That the Chief Financial Officer of the City is authorized to issue checks in the amounts of Sixty Three Thousand Seven Hundred Fifty Dollars and 00/100 (\$63,750.00) to the **State of Georgia** and Sixty Three Thousand Seven Hundred Fifty Dollars and 00/100 (\$63,750.00) payable to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia; and

**Section Two:** That the said payments be chargeable to Account Number 2J01 529017 M51001.

**EXHIBIT A**  
**Attachment 9.1**  
**Summary of Fecal Coliform Operational Standards and Sampling Penalties**  
**CSO Consent Decree Sections XI.D.2 and XI.D.3**

In conformance with sections XI.D.2 and XI.D.3 of the CSO Consent Decree, the City will be submitting payment in the amount of \$127,500 related to Stipulated Penalties for violations of CSO Fecal Coliform Operational Standards and CSO Sampling Requirements through January 30, 2002. The basis for this payment amount is summarized below:

**Section XI.D.2 - Fecal Coliforms greater than 4,000 colonies per 100 ml, November – April**

Date	Facility	Colonies/100 ml	Penalty	Comment
11/23/2001	Clear Creek	49,000	\$8,500	Dosing pumps locked out by contractor
11/23/2001	North Avenue	39,000	\$8,500	Antisiphon device on sodium hypochlorite line failed
11/30/2001	Clear Creek	1,600,000	\$8,500	
11/30/2001	North Avenue	850,000	\$8,500	Antisiphon device on sodium hypochlorite line failed
12/17/2001	North Avenue	600,000	\$8,500	
1/19/2002	North Avenue	68,400	\$8,500	Replacement antisiphon device on sodium hypochlorite line failed
			\$51,000	
12/17/2001	Tanyard	44,000	\$8,500	Not Enforced per EPA (2/25/02)

**Section XI.D.3 - Failure to collect and test four samples per month**

Date	Facility	Status	Penalty	Comment
8/31/2001	North Avenue	Not sampled	\$8,500	Labor Day weekend
9/3/2001	North Avenue	Not sampled	\$8,500	Labor Day weekend
1/6/2002	Clear Creek	Not sampled	\$8,500	Paging system failure
1/6/2002	Greensferry	Not sampled	\$8,500	Paging system failure
			\$34,000	
8/31/2001	Tanyard	Not sampled	\$8,500	Subject to Delay Force Majeure (Note 1)
		Not sampled	\$8,500	*Force Majeure Denied by EPA (2/25/02)
9/3/2001	Tanyard	Not sampled	\$8,500	Subject to Delay Force Majeure (Note 1)
		Not sampled	\$8,500	*Force Majeure Denied by EPA (2/25/02)
12/23/2001	North Avenue	Not sampled	\$8,500	Subject to Holiday Sampling Force Majeure (Note 2) *Force Majeure Denied by EPA (2/25/02)
12/23/2001	Tanyard	Not sampled	\$8,500	Subject to Holiday Sampling Force Majeure (Note 2) *Force Majeure Denied by EPA (2/25/02)
			\$8,500	Subject to Holiday Sampling Force Majeure (Note 2) *Force Majeure Denied by EPA (2/25/02)
12/23/2001	Clear Creek	Not sampled	\$8,500	Subject to Holiday Sampling Force Majeure (Note 2) *Force Majeure Denied by EPA (2/25/02)
			\$42,500	

## FECAL COLIFORM EXCEEDANCES (XI.D.2)

The City is investigating the circumstances that caused violations of the fecal operational limits. The circumstances, where known, are indicated above. There was a mechanical problem being addressed that caused the pumps to be inadvertently locked out and prevented feeding sodium hypochlorite at Clear Creek on November 23, 2001. Problems with operation of the antisiphon device at North Avenue resulted in underfeeding sodium hypochlorite as noted above. This device has been recently replaced for the second time and other modifications are being evaluated to correct this problem. In other instances, the systems operated and total chlorine residuals ranging from 0.1 to 1.8 mg/l were obtained. The City is committed to adjusting these facilities as necessary to reliably achieve the operational limits.

## SAMPLING (XI.D.3)

The events on August 31 and September 3 at North Avenue and Tanyard occurred over the long Labor Day weekend when sampling was incorrectly suspended, without consideration of the new operational standard requirements that went into effect the week before.

## *FORCE MAJUERE NOTES*

Note 1. A Force Majeure notice relating to the delayed construction of the disinfection optimization improvements at the Tanyard CSO facility submitted by the City (July 27, 2001) and supplemented (November 26, 2001) was denied by EPA/EPD.

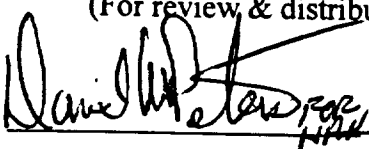
Note 2. A Force Majeure notice relating to the events during the Christmas period at North Avenue, Tanyard, and Clear Creek submitted by the City (December 10, 2001) was denied by EPA/EPD.

# TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

GREG PRIDGEION

(For review & distribution to Execution Management)

Commissioner's Signature: 

Director's Signature \_\_\_\_\_

From: Origination Dept.

PUBLIC WORKS

Contact (name):

Ben Taube x 5232 or  
David W. Peters x 6073

Committee(s) Purview:

City Utilities Committee

Committee Deadline:

Committee(s) Meeting Dates: March 26, 2002

City Council Meeting Date: April 1, 2002

## CAPTION:

A Resolution to authorize payment of stipulated penalties imposed by the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) in the amount of one hundred twenty seven thousand five hundred dollars and 00/100 (\$127,500.00) as stipulated penalties for violations of CSO Fecal Coliform Operational Standards and CSO Sampling pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT; to identify the source of funding; and for other purposes.

## BACKGROUND/PURPOSE/DISCUSSION:

The City has experienced violations of Fecal Coliform Operational Standards and Sampling Requirements.

## FINANCIAL IMPACT (If Any):

Mayor's Staff Only

Received by Mayor's Office: \_\_\_\_\_

(date)

Reviewed by: 

(initials)

(date)

Submitted to Council: \_\_\_\_\_

Action by Committee: Approved \_\_\_\_\_ Adverse \_\_\_\_\_ Held \_\_\_\_\_ Amended \_\_\_\_\_

Substitute \_\_\_\_\_ Referred \_\_\_\_\_ Other \_\_\_\_\_